IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

LARRY RICE,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 4:13-CV-01171-HEA
	)	
INTERFOOD, INC., et al.,	)	
	)	
Defendants.	)	

DEFENDANTS' MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION FOR RECONSIDERATION

Defendants INTERFOOD, INC., F.C.G.M.VAN STIPDONK, DIRK NEERHOFF, JASON MEDCALF, and NICK SHARP (collectively, "Defendants"), hereby respond to plaintiff LARRY RICE's motion for reconsideration as follows.

Introduction

The motion pending before the Court [Doc. No. 116] pens the latest chapter in Mr. Rice's nearly ten-year pursuit of the Defendants.[1] On March 10, 2014, the Court dismissed Mr. Rice's Complaint for failure to state a claim. The Court ruled that Mr. Rice's breach of fiduciary duty claims were time-barred, that his breach of contract claims were brought against nonparties to the contract sued upon, and that his civil conspiracy claims were not premised on a viable underlying substantive claim. [Doc. No. 38]. Mr. Rice now seeks reconsideration of that order and an entry of a final judgment. Mr. Rice's request for reconsideration should be denied.[2]

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[1] For a full history of the litigation between Mr. Rice and Defendants, *see* Doc. Nos. 10 and 11.

[2] As to a final judgment, the only remaining issue in this case is the amount of damages to be awarded for Defendants' Counterclaim, on which the Court entered judgment in favor of Defendants on January 23, 2015. *See* Doc. Nos. 15, 102, 103, 105, 106, 107, 112, 113.

Argument

The Court did not err in dismissing the Complaint, and Mr. Rice's motion provides no basis for reconsideration. In particular, Mr. Rice identifies no errors of law or fact or newly discovery evidence; he simply disagrees with the outcome of Defendant's motion to dismiss. *See Arnold v. ADT Sec. Servs., Inc.*, 627 F.3d 716, 721 (8th Cir. 2010) ("Motions for reconsideration serve a limited function: to correct manifest errors of law or fact or to present newly discovered evidence"). Accordingly, Mr. Rice's request for reconsideration of the order granting Defendants' motion to dismiss should be denied.

Mr. Rice also incorrectly asserts that Count II has not been resolved with respect to Interfood, Inc. As an initial matter, it does not appear that Count II is directed to Interfood, Inc. Compl. [Doc. No. 1], ¶ 38 (asserting that van Stipdonk and Neerhoff breached a contract). Even if Count II could be construed to be against Interfood, Inc., Interfood, Inc. was not a party to the Waltepco shareholders agreement. Exhibit A to Compl. Indeed, none of the Defendants (including but not limited to Interfood, Inc.) are parties to that contract. *Id.* As the Court noted in its March 10, 2014 Opinion, Memorandum and Order, defendants in an action on a contract must be the parties obligated to perform under the contract. *Calender v. City of Pine Lawn*, 2008 WL 276531, at *1 (E.D. Mo. 2008); *Nachbar v. Duncan*, 114 S.W.3d 421, 424 (Mo. App. 2003). Count II was properly dismissed.

Mr. Rice also seeks a ruling on his "Motion to Declare Franklin County MO Cause 07AB-CC00086 Void *Ab Initio*." [Doc. No. 60]. As Defendants noted in their memorandum in opposition [Doc. No. 64], the jurisdictional claims in that motion have already been addressed in a related case. *See* Order of Dismissal, Cause No. 4:13-CV-2248-RWS (Doc. Nos. 7, 22, 28). To the extent that the Court has not already denied the motion [Doc. No. 60], the motion should be denied pursuant to the *Rooker-Feldman* doctrine.[3] *See Dodson v. University of Ark. for Med. Sciences*, 601 F.3d 750, 754 (8th Cir. 2010).

Conclusion

For the foregoing reasons, and the reasons set forth in Defendants' original briefs in opposition to Mr. Rice's original motions, Mr. Rice's motion for reconsideration of this Court's dismissal of his Complaint should be denied.

By: /s/ Jeffrey L. Schultz
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[3] Mr. Rice also asserts that his jurisdictional arguments were set forth in a combined reply brief and "Motion to Vacate Void Judgment" [Doc. No. 32]. To the extent not already denied, that motion should be denied for the same reasons as Doc. No. 60.

CERTIFICATE OF SERVICE

I hereby certify that on December 1, 2015, the foregoing was filed electronically with the Clerk of Court and served by U.S. Mail, postage prepaid, on:

Larry Rice
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Washington, MO 63090

Appearing Pro Se

/s/ Jeffrey L. Schultz